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May 16, 2006

AGENDA ITEM 7-C

TO: MEMBERS OF THE BENEFITS AND PROGRAM ADMINISTRATION COMMITTEE

I. SUBJECT: AB 2795 (Negrete McLeod) - As Amended April 24, 2006

Expansion of Reciprocity to 18 months

San Bernardino County Safety Employees' Benefit Association (SEBA)

II. PROGRAM: Legislation

III. RECOMMENDATION: Neutral

This bill would create greater benefit equity among CalPERS members by extending reciprocity from 6 months to 18 months, but could create additional liability to employers in a reciprocal retirement system.

IV. ANALYSIS:

This bill would extend the time period for public employees to move between retirement systems with reciprocity in effect from 6 months to 18 months. Current provisions in Public Employees Retirement Law (PERL) and County Employees' Retirement Law of 1937 ('37 Act Law) require an employee to have no more than a six month break in service when changing employment between systems to receive full benefit reciprocity.

Background

Reciprocity is an agreement among public retirement systems to allow members to move from one public employer to another within a specific time without losing some valuable retirement and related benefits.

The California Public Employees' Retirement System (CalPERS) has established reciprocal agreements with the '37 Act County Retirement System ('37 Act System), California Public Agency systems, and the University of California Retirement Plan

(UCRP). There are 20 counties in the ’37 Act System and 18 agencies, mostly cities and water districts, in the California Public Agency systems. The law states that reciprocal systems must have similar (although not exactly the same) retirement provisions and that all systems that have established reciprocity with CalPERS will extend the same reciprocal rights to employees who move from CalPERS-covered employment to employment in a reciprocal system.

An employee who moves between CalPERS and reciprocal public employers within a 6-month time frame retains the following:

- The employee may use the years from all reciprocal employers to qualify for retirement vesting;
- The highest compensation earned in any reciprocal system is used as final compensation in computing retirement benefits;
- If the member’s contribution rate is based on age (as in the ’37 Act System), the earliest age of entry into any reciprocal system is used as long as contributions have not been withdrawn between periods of employment;
- When the member retires for disability the member is entitled to a disability benefit from each reciprocal system based on the member's service in each system, not to exceed the amount the member would have received if all service had been with the reciprocal system; and
- When the lump-sum pre-retirement death benefit is due, the member is entitled to a benefit from each reciprocal system based on the member's service in each system, not to exceed the amount the member would have received if all service had been with the reciprocal system.

Upon retirement, the member must retire from all systems concurrently in order for reciprocity rules to apply. The member receives a retirement allowance from each system. The benefits of reciprocity, however, are subject to certain conditions. Specifically, the member must be employed in a reciprocal system within 6 months of separating from the previous public employer. Furthermore, a member must leave contributions on deposit in the former system once employed in the reciprocal system, or redeposit any withdrawn contributions to establish reciprocity.

In addition, CalPERS has limited reciprocity with the State Teachers’ Retirement System (STRS), the two Judges’ Retirement Systems (JRS and JRS II), and the Legislators’ Retirement System (LRS) to allow highest final compensation exchange when members retire concurrently from CalPERS and those systems.

Proposed Changes

AB 2795 would extend the 6 month limitation to 18 months which currently blocks reciprocal rights to persons, otherwise eligible, who do not enter employment under a reciprocal system (or CalPERS) within six months of leaving employment with a reciprocal system (or CalPERS).

Assembly Bill 2795 would also require an extension of the 6 month limitation for '37 Act employers to 18 months. Although AB 2795 does not contain provisions related to the California Public Agency systems, those systems agree to be subject to the same reciprocal limitations and rights as CalPERS and the '37 Act System. Thus, those systems would be required to comply with AB 2795 in order to retain reciprocity with CalPERS and the '37 Act System.

Legislative History

2004 AB 2956 (Wiggins)—Would provide for reciprocity of retirement benefits for members if the period of time between the member's discontinuance of employment subject to CalPERS or a '37 Act System and his or her entry into employment subject to other retirement systems does not exceed 36 months. Vetoed by Governor. *CalPERS' position: None.*

2003 AB 285 (Negrete McLeod)—Would eliminate current provisions in the PERL and '37 Act Law that require an employee to have no more than a six month break in service when changing employment between systems in order to receive full benefit reciprocity. The bill failed in Committee. *CalPERS position: None*

2001 AB 1502 (Rod Pacheco)—Would eliminate the 6-month limitation with regard to redeposit rights and final compensation determination in '37 Act Law only. Vetoed by the Governor citing falling revenues and unfunded liabilities in the '37 Act System. Vetoed by Governor. *CalPERS' position: None*

AB 1190 (Papan)—Almost identical to AB 285, would have eliminated the 6-month limit on reciprocity. The bill failed in committee. *CalPERS' position: None*.

Chapter 433 (AB 1099, Havice)—Added JRS and JRS II to the reciprocity provisions in the PERL and '37 Act Law. *CalPERS' position: Support.*

1975 Chapter 526 (AB 1369, Craven)—Extended 90-day limitation on reciprocity rights to 6 months.

1958 Chapter 776 (AB 977)—Extended 60-day limitation on reciprocity rights to 90 days.

1957 Chapter 2399 (AB 3998)—Established reciprocity between CalPERS and '37 Act System. Time limit on movement between systems established at 60 days.

Issues

1. Arguments in Support

   Supporters state that extending the limitation to 18 months on full reciprocity rights will encourage employment, and reemployment, in public service. In these times it is unusual for employees to remain with one employer for the length of their careers. Employees who have taken a separation of service to pursue education, take care of family needs, or gain valuable experience in the private sector will be more likely to return to public service if they can receive the maximum retirement benefits available for all of their years of service. In addition, with the current state of California's economy, public employees may be laid off from employment and may not be able to be re-employed within the current 6-month time frame. Those employees will see valuable retirement and benefit rights diminished. This legislation will give public employees more flexibility and preserve their benefits.

   Organizations in Support: San Bernardino County Safety Employees' Benefit Association (*sponsor)*, Association of California Water Agencies, California Professional Firefighters, Peace Officers Research Association of California, San Bernardino Public Employees Association, Independent Employees of Merced County, Organization of SMUD Employees, San Luis Obispo County Employees Association, Santa Rosa City Employees Association

2. Arguments by those in Opposition

   There is currently no known opposition.

3. No time limitation on highest final compensation with UCRP and STRS, LRS, and JRS and among CalPERS' contracting agencies.

   Highest compensation exchange is the most costly component of reciprocity. CalPERS already has highest compensation exchange for members who move among the almost 1,500 CalPERS public agency employers and state employment. With limited exceptions, the highest salary reported through any CalPERS-covered employment is used to compute all CalPERS benefits even if earned through another employer. In addition, members who move between CalPERS and CalSTRS, LRS, JRS and JRS II, and the University of California covered employment may receive highest final compensation exchange regardless of the length of time between periods of service. The only requirements are that they remain members in all systems and retire concurrently from all systems. Extending reciprocity from 6 months to 18 months to the '37 Act System and the Public Agency system for highest final compensation exchange could be seen as causing a proportionally small increase in the number of individuals who already could be eligible for highest compensation exchange through CalPERS-covered employment.

4. Legislative Policy Standards

   The Board's Legislative Policy Standards do not directly address reciprocity issues but suggest a neutral position on proposals which do not significantly affect the benefit interests of our stakeholders, and which do not significantly impact CalPERS' benefits or the administration of the system. This bill would create added liability to all of the reciprocal retirement systems by extending the time limitation to 18 months, increasing employer costs due to the use of highest final compensation as well as for disability retirement benefit based on a disability incurred through employment under another system.

   Conversely, CalPERS already allows final compensation reciprocity for members with service in the many CalPERS' contracting agencies, CalSTRS, LRS, JRS, JRS II, and UCRP. AB 2795 likely would create greater benefit equity by allowing members in the other reciprocal systems (specifically '37 Act counties and California Public Agency systems) to receive the same right.

V. STRATEGIC PLAN:

This item is not a specific product of the annual or strategic plans, but is part of the regular and ongoing workload of the Office of Governmental Affairs.

VI. RESULTS/COSTS:

AB 2795 will give members in CalPERS and reciprocal systems the ability to receive full reciprocity rights if the length of time between periods of public service is not over 18 months. In some cases, this may provide a retirement benefit which otherwise would have been unattainable or result in an increased retirement allowance. In fewer cases, CalPERS-covered employers will be liable for increases due to disability and pre-retirement death benefits for CalPERS members who are also members in '37 Act Systems and California Public Agency systems.

Program Costs

CalPERS does not currently keep records of members who enter employment with employers in reciprocal systems unless contacted afterward with reciprocity established. Although a notation may exist in a member file, no database entry or flag was established for individuals denied reciprocity due to entry into employment with a reciprocal system as a result of not meeting the 6-month time requirement. In most cases, CalPERS is not provided employment information after a member leaves CalPERS covered employment.

It is unknown how many members will be affected by AB 2795, but it is likely to increase employer costs. However, at this time accurate cost estimates are not possible due to insufficient quantifiable information.

Administrative Costs

Staff notes that this change will require changes to publications, forms, and systems used to calculate member benefits.

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